

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

* * *

TIMOTHY STALL,

Plaintiff,

Case No. 2:19-cv-01321-APG-BNW

ORDER

V₃

WARDEN BRIAN WILLIAMS, et al.,

Defendants.

9 This action is a *pro se* civil rights complaint filed pursuant to 42 U.S.C. § 1983 by a state
10 prisoner. On August 6, 2019, I ordered the plaintiff to file a fully complete application to
11 proceed *in forma pauperis* or pay the full filing fee of \$400.00 within 30 days from the date of
12 that order. ECF No. 2 at 2. The 30-day period has now expired, and the plaintiff has not filed an
13 application to proceed *in forma pauperis*, paid the full filing fee, or otherwise responded to the
14 order.

15 District courts have the inherent power to control their dockets and “[i]n the exercise of
16 that power, they may impose sanctions including, where appropriate . . . dismissal” of a case.

17 *Thompson v. Hous. Auth. of City of Los Angeles*, 782 F.2d 829, 831 (9th Cir. 1986). A court may
18 dismiss an action, with prejudice, based on a party's failure to prosecute an action, failure to
19 obey a court order, or failure to comply with local rules. *See Ghazali v. Moran*, 46 F.3d 52, 53-
20 54 (9th Cir. 1995) (dismissal for noncompliance with local rule); *Ferdik v. Bonzelet*, 963 F.2d
21 1258, 1260-61 (9th Cir. 1992) (dismissal for failure to comply with an order requiring
22 amendment of complaint); *Carey v. King*, 856 F.2d 1439, 1440-41 (9th Cir. 1988) (dismissal for
23 failure to comply with local rule requiring *pro se* plaintiffs to keep court apprised of address);

1 *Malone v. U.S. Postal Service*, 833 F.2d 128, 130 (9th Cir. 1987) (dismissal for failure to comply
2 with court order); *Henderson v. Duncan*, 779 F.2d 1421, 1424 (9th Cir. 1986) (dismissal for lack
3 of prosecution and failure to comply with local rules).

4 In determining whether to dismiss an action for lack of prosecution, failure to obey a
5 court order, or failure to comply with local rules, the court must consider several factors: (1) the
6 public's interest in expeditious resolution of litigation; (2) the court's need to manage its docket;
7 (3) the risk of prejudice to the defendants; (4) the public policy favoring disposition of cases on
8 their merits; and (5) the availability of less drastic alternatives. *Thompson*, 782 F.2d at 831;
9 *Henderson*, 779 F.2d at 1423-24; *Malone*, 833 F.2d at 130; *Ferdik*, 963 F.2d at 1260-61;
10 *Ghazali*, 46 F.3d at 53.

11 Here the first two factors (the public's interest in expeditiously resolving this litigation
12 and the Court's interest in managing the docket) weigh in favor of dismissal. The third factor
13 (risk of prejudice to Defendants) also weighs in favor of dismissal, since a presumption of injury
14 arises from the occurrence of unreasonable delay in filing a pleading ordered by the court or
15 prosecuting an action. *See Anderson v. Air West*, 542 F.2d 522, 524 (9th Cir. 1976). The fourth
16 factor (public policy favoring disposition of cases on their merits) is greatly outweighed by the
17 factors in favor of dismissal. Finally, a court's warning to a party that his failure to obey the
18 court's order will result in dismissal satisfies the "consideration of alternatives" requirement.
19 *Ferdik*, 963 F.2d at 1262; *Malone*, 833 F.2d at 132-33; *Henderson*, 779 F.2d at 1424. The order
20 requiring the plaintiff to file an application to proceed *in forma pauperis* or pay the full filing fee
21 expressly stated: "IT IS FURTHER ORDERED that if Plaintiff does not timely comply with this
22 order, dismissal of this action may result." ECF No. 2 at 2. Thus, the plaintiff had adequate
23 warning that dismissal would result from his noncompliance with the order.

1 It is therefore ordered that this action is dismissed without prejudice based on the
2 plaintiff's failure to file an application to proceed *in forma pauperis* or pay the full filing fee in
3 compliance with the August 6, 2019 order.

4 It is further ordered that the Clerk of Court shall enter judgment accordingly.

5 Dated: September 18, 2019.

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7 ANDREW P. GORDON
8 UNITED STATES DISTRICT JUDGE
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